

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Criminal Action No. 1:13-CR-339 (MAD)

v.

TERRY R. NICHOLAS,

Defendant.

STIPULATION AND ORDER
FOR ENLARGEMENT OF TIME

STIPULATION

Daniel DeMaria, the attorney for defendant Terry R. Nicholas in the above-captioned action, having moved for a continuance of sixty (60) days within which the defense may prepare motions and prepare for trial, and Richard S. Hartunian, United States Attorney for the Northern District of New York (by Jeffrey C. Coffman, Assistant United States Attorney), having consented to the continuance and the proposed exclusion of a sixty (60) day period under the Speedy Trial Act, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), the parties hereby stipulate and agree as follows:

1. The chronology of this case is as follows:
 - a. Date of indictment: September 4, 2013.
 - b. Date of initial appearance and arraignment: January 13, 2014.
 - c. Defendant's custody status: in custody.
 - i. Date United States moved for detention: January 13, 2014
 - ii. Date detention decision issued: January 13, 2014
 - d. Prior enlargements of time and exclusions under the Speedy Trial Act

i. By order dated December 3, 2013, (Dkt. #8) the Court excluded the 90-day period of time from December 3, 2013, through March 2, 2014, extended the pretrial motions deadline to February 14, 2014, and continued the trial date to April 14, 2014.

ii. By order dated February 18, 2014, (Dkt. #16), the Court excluded the 90-day period of time from February 18, 2014, through May 18, 2014, extended the pretrial motions deadline to June 2, 2014, and continued the trial date to July 21, 2014.

2. The defendant has requested the continuance based on the following facts and circumstances:

a. On January 13, 2014, the defendant was arraigned on three counts of a five-count indictment alleging that the defendant engaged in a conspiracy to commit access device fraud and aggravated identity theft, in violation of 18 U.S.C. §§ 1029(b)(2), 1029(a)(1), and 1028A(a)(1).

b. In accordance with the Court's pretrial order, the government has provided discovery to the defendant, including several hours of surveillance video from dozens of dates and locations.

c. Counsel for the defendant entered his appearance in this matter on April 17, 2014, as substitute for the defendant's court appointed counsel.

d. Pretrial motions are due on June 2, 2014. Counsel for the defendant will need additional time to review the videos, to research and prepare motions, and to prepare for trial.

e. The parties stipulate and agree that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial. The nature of the investigation, its complexity, and the need for the defendant's new counsel to review the discovery, make it unreasonable to expect the defense to submit motions by June 2, 2014, and be prepared to defend the case by July 21, 2014, (the presently scheduled trial date), taking into account the exercise of due diligence.

3. The parties stipulate and agree that the time period running sixty (60) days from the date of this order shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv).

4. The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

Dated: May 23, 2014

RICHARD S. HARTUNIAN
United States Attorney

By: Jeffrey C. Coffman
Jeffrey C. Coffman
Assistant U.S. Attorney
Bar Roll No. 517969

Daniel DeMaria
Daniel DeMaria, Esq.
Attorney for Terry R. Nicholas
Bar Roll No.